

**BEFORE THE FEDERAL ELECTION COMMISSION
COMPLAINT**

Tom McClintock, McClintock for Congress,
Partnership for America; RESPONDENTS

MUR No. 6010

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2008 MAY 12 P 1:13

INTRODUCTION

The unlawful use of soft-money to influence federal elections has long been a serious violation of federal campaign laws. The coordination of soft-money expenditures with a candidate for federal office is even worse. Despite the legal prohibition and the serious consequences that follow, Tom McClintock, a candidate for the 4th congressional district in California has chosen to disregard federal law and conspired with a shadowy third party to influence his upcoming primary election to be held on June 3, 2008. As set forth more fully below:

TOM McCLINTOCK personally, and through agents of his campaign, is soliciting funds in excess of the contribution limits and source restrictions of the Federal Election Campaign Act ("FECA") to undertake both an "independent expenditure" in support of his candidacy AND/OR an "issue advocacy" effort that is designed to "create a better scenario for the conservative candidate (who is aligned with our beliefs) to achieve victory in the primary as well as the general election." VIOLATIONS OF 2 USC §§ 441a, 441b.

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- **TOM McCLINTOCK** personally, and through agents of his campaign, has solicited funds in excess of the contribution limits from Southern California Indian Gaming Tribes to fund these activities intended to influence the upcoming federal election without disclosure of these activities. VIOLATIONS OF 2 USC §§ 432, 433, 434.
 - **PARTNERSHIP FOR AMERICA**, through its principals and agents, has established itself as an entity that raises funds in excess of contribution limits and source restrictions of the FECA to undertake a \$660,000 self-described "campaign" including "an aggressive absentee ballot and GOTV campaign through our extensive grassroots network, using a wide variety of phone, email, direct mail, talk radio appearances, and other campaign tools" for the admitted purpose of "creat[ing] a political environment by which the most conservative candidate's message on taxes, economic development; gun rights, immigration, and other key issues will lead to higher turnout among like minded people who care about those issues... to achieve victory in the primary as well as the general election in November." None of these contributions or expenditures are being reported under federal law. VIOLATIONS OF 2 USC §§ 441a, 441b, 432, 433, 434.
 - **DOES 1-100** are generally identified as donors to **PARTNERSHP FOR AMERICA**, including a number of Southern California Indian Gaming Tribes, who were recently solicited by **TOM McCLINTOCK**, personally and by agents of his campaign to contribute to the illegal independent expenditure and/or issue advocacy "campaign" and are conspiring to violate federal law as indicated above.

SPECIFIC ALLEGATIONS

- 1) **PARTNERSHIP FOR AMERICA** is organized as a nonprofit exempt from federal income tax under Internal Revenue Code section 501(c)(4) according to its website.

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(www.partnershipforthewest.org) PARTNERSHIP FOR AMERICA is not registered as a political committee under the FECA nor does it report receipts and expenditures to the IRS on Form 8872.

- 2) Recently, PARTNERSHIP FOR AMERICA, by and through its agents Darrell Henry and Steve Ding, has prepared and distributed a three-page document entitled "CA-4 CONGRESSIONAL ISSUE ADVOCACY CAMPAIGN." (A true and correct copy is attached hereto as Exhibit "A.") As indicated in the campaign plan, there is a budget of \$660,000 for the express purpose of influencing the outcome of the June 3, 2008 primary election, to be held in California. All of the activities set forth in the "timeline" are directed at the election date, including GOTV and "election day" activities.
- 3) According the PARTNERSHIP FOR AMERICA'S website, it receives financial support from "more than 600 companies, associations, coalitions and individuals." More specifically, PARTNERSHIP FOR AMERICA, by and through its agents Steve Ding and TOM McCLINTOCK, recently solicited contributions for its "campaign" from Southern California Indian Gaming Tribes at a meeting of such tribes in California on or about April 22, 2008. This solicitation and meeting was recently reported by the Sacramento Bee newspaper, and was witnessed by dozens of individuals at the meeting. (A true and correct copy of the Sacramento Bee story that ran on April 26, 2008, is attached hereto as Exhibit "B.")
- 4) Further, PARTNERSHIP FOR AMERICA, by and through its agent Steve Ding, distributed an e-mail including the document attached as Exhibit A and more accurately described it as "the independent expenditure that has been shared with numerous

California tribes" in the search for more funding. (A true and correct copy of Mr. Ding's e-mail is attached hereto as Exhibit "C.")

- 5) Steve Ding, served as both an agent of PARTNERSHIP FOR AMERICA and TOM McCLINTOCK. As evidenced by recent filings by McCLINTOCK FOR CONGRESS (FEC ID#COO446815), Mr. Ding is a paid employee/consultant of the campaign committee. Further, Mr. Ding is alleged to have accompanied TOM McCLINTOCK at fundraising events for McCLINTOCK FOR CONGRESS, in Washington D.C. and other cities.
- 6) TOM McCLINTOCK is a candidate for the 4th congressional district in California. The primary election is to be held on June 3, 2008. He frequently touts himself as "the most conservative" candidate in the primary election race through communications with voters. McCLINTOCK FOR CONGRESS, is the authorized campaign committee of TOM McCLINTOCK.
- 7) TOM McCLINTOCK, and his agent Steve Ding, recently traveled to a meeting of California Indian Gaming Tribes on or about April 22, 2008. At that meeting, TOM McCLINTOCK personally solicited campaign contributions for his authorized committee. It is not known, but believed, that TOM McCLINTOCK also solicited contributions for PARTNERSHIP FOR AMERICA.
- 8) Steve Ding, personally solicited contributions to PARTNERSHIP FOR AMERICA at the same time or immediately after TOM McCLINTOCK made his pitch to the Indian Gaming Tribes in attendance. It is not known, but believed, that Steve Ding solicited contributions to McCLINTOCK FOR CONGRESS.

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- 9) The "campaign" that PARTNERSHIP FOR AMERICA has funded in whole or in part, and has executed in part, is clearly intended to influence the federal election to be held on June 3, 2008, as best evidenced by Exhibit A and the obvious coordination between PARTNERSHIP FOR AMERICA and federal candidate TOM McCLINTOCK. (According to the "timeline," research activities were to be commenced in April and it has been reported that a telephone survey has been conducted within the district and presumed to be paid for by PARTNERSHIP FOR AMERICA.)
- 10) The coordination of these activities is unlawful under 11 CFR § 109.21(a). Further, such coordination of these activities would result in an unlawful "in-kind contribution" from PARTNERSHIP FOR AMERICA to McCLINTOCK FOR CONGRESS.
- 11) Recently, certain independent expenditures in support of TOM McCLINTOCK have begun in the 4th congressional district including the "Club for Growth." It is not known at this time if Club for Growth or others are involved in the conspiracy to violate the FECA described above.

RELIEF REQUESTED

Complainants and each of them demand the Federal Election Commission to take all actions necessary and appropriate to prohibit the violation of the soft-money prohibitions of the FECA and to punish such violations to the full extent of the law.

Sworn to the truth of the allegations made herein on personal information or based on information and belief this 29 day of April, 2008 in Reynolds California.

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COMPLAINANT

Name:

Cheryl A. Schmit

Address:

City, State, Zip:

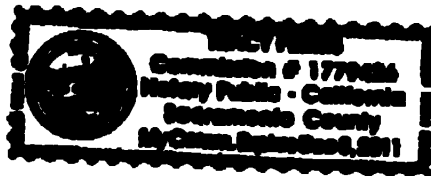
Pennryn, CA. 95663

State of California

County of Placer

Subscribed and sworn to (or affirmed) before me on this 1 day of May, 20 08, by Cheryl A. Schmit, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(seal)



Signature

Tracy Lewis

COMPLAINANT

Name:

[Signature]

Address:

City, State, Zip:

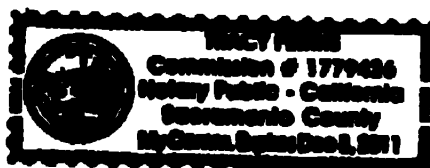
Emery Bay, CA 95746

State of California

County of Placer

Subscribed and sworn to (or affirmed) before me on this 1 day of May, 20 08, by Kirk Uhter, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(seal)



Signature

Tracy Lewis

29044223942

COMPLAINANT

Name:

John M. Holmes

Address:

[Redacted]

City, State, Zip:

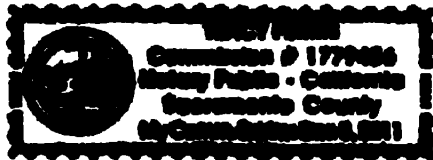
Arbuckle, CA 95603

State of California

County of Placer

Subscribed and sworn to (or affirmed) before me on this 1 day of May, 2008, by John M. Holmes, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(seal)



Signature

Tracy Lino

COMPLAINANT

Name:

Frederick C. Rockholm

Address:

[Redacted]

City, State, Zip:

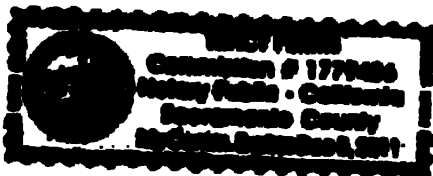
Roseville, CA 95678

State of California

County of Placer

Subscribed and sworn to (or affirmed) before me on this 1 day of May, 2008, by Frederick C. Rockholm, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(seal)



Signature

Tracy Lino

29044223943

COMPLAINANT

Name:

[Signature]

Address:

City, State, Zip:

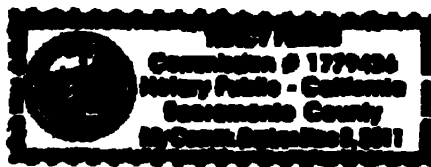
CAMERON PARK, CA 95682

State of California

County of Sacramento

Subscribed and sworn to (or affirmed) before me on this 1 day of May, 2008, by Ruthy Dupray, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(seal)



Signature

Tracy Lewis

COMPLAINANT

Name:

[Signature]

Address:

City, State, Zip:

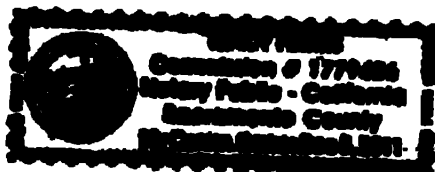
Lincoln, CA 95648

State of California

County of Placer

Subscribed and sworn to (or affirmed) before me on this 1 day of May, 2008, by Spencer Short, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(seal)



Signature

Tracy Lewis

29044223944

COMPLAINANT

Name:

Perekin

Address:

City, State, Zip:

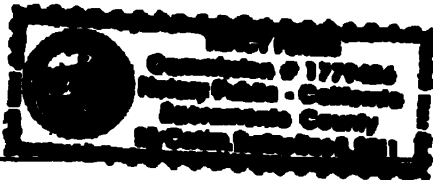
Pockin, CA 95677

State of California

County of Placer

Subscribed and sworn to (or affirmed) before me on this 1 day of May, 2008, by Peter HCU, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(seal)



Signature

Jacy Javis

COMPLAINANT

Name:

Robert M. Waggard

Address:

City, State, Zip:

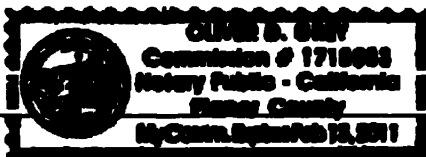
Lincoln, CA 95648

State of California

County of Placer

Subscribed and sworn to (or affirmed) before me on this 2nd day of May, 2008, by Robert M. Waggard, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(seal)



Signature

Chris J. Gray

10-67-9

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COMPLAINANT

Name:

James W. Holmes

Address:

City, State, Zip:

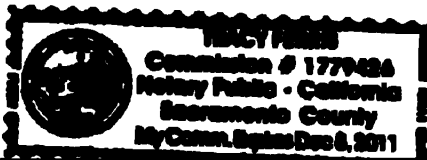
Auburn Ca 95603

State of California

County of Placer

Subscribed and sworn to (or affirmed) before me on this 2 day of
May, 20 08, by James W. Holmes, proved to me on the
basis of satisfactory evidence to be the person(s) who appeared before me.

(seal)



Signature

Tracy Farris

COMPLAINANT

Name:

Address:

City, State, Zip:

State of California

County of _____

Subscribed and sworn to (or affirmed) before me on this _____ day of
_____, 20____, by _____, proved to me on the
basis of satisfactory evidence to be the person(s) who appeared before me.

(seal)

Signature _____

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EXHIBIT A



PARTNERSHIP *for* AMERICA

CA-4 CONGRESSIONAL ISSUE ADVOCACY CAMPAIGN

As one of the nation's largest "pro-growth" grassroots coalitions, the Partnership for America is launching a campaign to highlight certain issue positions on the candidates in the 4th District of CA.

Our campaign will put the spotlight on the candidates' positions on taxes, economic and prosperity issues.

In addition, we plan to run an aggressive absentee ballot and GOTV campaign through our extensive grassroots contact network, using a wide variety of phone, email, direct mail, talk radio appearances, and other campaign tools.

Strategy / Purpose

We will aim to create a political environment by which the most conservative candidate's messages on taxes, economic development; gun rights; immigration, and other key issues will lead to higher turnout among like minded people who care about those issues. That, in turn, will create a better scenario for the conservative candidate (who is aligned with our beliefs) to achieve victory in the primary as well as the general election in November.

This organization will provide the constituents of CA-4 with key facts and information, based on solid research and message-testing, that will facilitate a more positive political climate in which issues important to the district will be more accurately discussed and debated

Phase I – Research and Planning

Research: Initial research on messaging and targets will guide the actual tactical operations of the campaign

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Phase II -- Tactics

The Partnership for America has pioneered the use of electronic web based advocacy communications and has developed a special integrated web/database platform that can deploy integrated direct communications to targeted individuals based on demographics and other criteria via phones, mail, and e-mail.

Direct Mail: The campaign will be all about targeting and delivering the right messages to the right voters. We will deliver compelling, provocative messages to key groups that will be moved to action based on the research.

Earned Media: We will identify key leaders to submit opinion pieces to key newspapers; letters to the editor; and stage events / rallies that will bring positive attention to the key issues.

Phone Outreach: Targeted calls into key identified households will identify prospective voters and help ensure strong turnout for the primary and the general election.

Paid Media: Based on research, if applicable, we may use targeted radio messages for key audiences.

Coalition building: We will work to generate information to other likeminded groups in an effort to have a major multiplier effect on our activities.

Outdoor advertising: After our research we will identify a key theme that will be printed on posted on all major traffic points.

Timeline for Primary Campaign

- April** – Research and Tactical Planning
 - Coalition education, recruitment, and activation
 - Prepare materials and acquire data
- May** – Bring web pages on-line and begin Internet campaign
 - Begin strong tactical push: automated calls, direct mail, grassroots outreach
 - Absentee ballot delivery
 - Begin paid and outdoor media
 - Targeted paid media outreach
- June** – GOTV
 - Final paid media push
 - Election Day

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Partnership for America
CA-4 Congressional Issue Advocacy Campaign
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Budget for Primary Campaign

(Costs are approximate, actual costs to be determined after research)

Research	\$ 40,000
Lists/Demographic Data	\$ 25,000
Internet Campaign	\$ 20,000
Direct Mail	\$200,000
Phones	\$ 25,000
GOTV	\$ 40,000
Earned Media/Coalitions	\$ 20,000
Paid Media	\$200,000
Outdoor Advertising	\$ 25,000
Administrative / Mgmt.	\$ 65,000
TOTAL:	\$660,000

Support the Partnership Campaign

As a 501(c)(4), we can undertake these non-partisan efforts only through the generosity of our supporters. We would greatly welcome your financial support of this effort. To make a contribution or pledge, please call Darrell Henry at 202-487-8727.

As a 501(c)4 "advocacy" group, we will not coordinate or campaign for any specific candidate. Our task is to advocate for certain issues with specific messages which in turn will positively impact the overall political climate for the economy and constituents of CA-4 and the United States. In addition, contributions to a 501(c)4 are not required to be disclosed.

Partnership for America
400 N. Capitol St.
Suite 216
Washington, DC 20001
202-220-1330
Federal Tax ID #: 02-0687149

Learn More About Us

Partnership for America is a 501(c)(4) non-profit organization comprised of individuals who support public policies that seek to restore a common sense balance between economic growth and conservation. For more information about us, visit our website at www.partnershipforamerica.org

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EXHIBIT B



The Sacramento Bee

This story is taken from Sacbee / Politics.

McClintock independent campaign effort questioned

By David Whitney - dwhitney@mcclatchydc.com
Published 12:00 am PDT Saturday, April 26, 2008

WASHINGTON - A six-figure independent campaign intended to benefit state Sen. Tom McClintock's run for the House is being promoted by a political consultant who just weeks before was on the senator's campaign payroll.

The disclosure raises questions about just how independent the effort is and whether the consultant's involvement runs afoul of federal election rules.

Partnership for America, a Washington-based nonprofit headed by former Rep. Richard Pombo, is organizing the \$660,000 independent campaign in the 4th Congressional District where McClintock and former Rep. Doug Ose are locked in a bitter Republican primary battle for the seat held by retiring Rep. John Doolittle.

Steve Ding, a former Pombo aide who was on McClintock's campaign payroll until a few weeks ago, is now soliciting donors to the independent effort.

Both Ding and McClintock were in San Diego earlier this week for the National Indian Gaming Association conference where McClintock was soliciting contributions to his campaign and Ding was looking for contributors to the independent effort. McClintock has been an advocate of Indian casino expansion.

But the Ose campaign charged Friday that a wall that is supposed to separate an independent expenditure campaign from a candidate's committee has been breached.

"I don't find it plausible that they both just happened to be there at the same time," said Ose's campaign spokesman, Doug Elmets. "We're not that gullible."

The implications could be considerable.

The three-page partnership plan promised anonymity to contributors because of its nonprofit status. But according to Federal Election Commission rules, Ding's employment by the McClintock committee might be enough for the campaign to be considered "coordinated" with McClintock, meaning contributions would have to be disclosed.

The regulations require a 120-day employment separation to establish independence. Otherwise, the campaign would be considered coordinated, which could affect the Partnership for America's nonprofit status.

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McClintock said Ding's job ended April 9, when he was in Washington with the senator.

The partnership plan said the organization's status forbids it from coordinating with or campaigning for any candidate. McClintock's name does not appear in the three-page document.

It describes a campaign to "create a better scenario for the conservative candidate - who is aligned with our beliefs - to achieve victory in the primary as well as the general election in November." McClintock is characterizing himself as the most conservative candidate.

A day after the Indian gambling meeting, Ding said in an e-mail that the partnership's plan "has been shared with numerous California tribes" and "we hope that you will join us."

Pombo said in a telephone interview Friday that he knew nothing about the independent expenditure campaign his organization was running. Darrell Henry, the partnership's federal affairs director, first denied there was a campaign and then insisted it was still in the draft stage. Henry also said Ding was not associated with the partnership.

Ding did not return phone calls asking for comment.

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